

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 18/MP/2019

Coram:

**Shri P.K Pujari, Chairperson
Shri Arun Goyal, Member
Shri I.S Jha, Member
Shri Pravas Kumar Singh, Member**

Date of Order: 23rd October, 2021

In the matter of

Petition under Section 79 of the Electricity Act, 2003 read with Article 17 of the PPA dated 23.3.2007 between Coastal Andhra Power Limited and Distribution licensees of States of Andhra Pradesh, Telangana, Maharashtra, Karnataka and Tamil Nadu seeking reference of disputes between CAPL and Procurers to Arbitration.

And

In the matter of

1. Coastal Andhra Power Limited,
I-Block, 2nd Floor, North Wing,
Dhirubhai Ambani Knowledge City,
Thane Belapur Road, Koperkhairne,
Navi Mumbai - 400 710

2. Reliance Power Limited,
H Block, 1st floor, Dhirubhai Ambani Knowledge City,
Navi Mumbai, Maharashtra - 400710

.... Petitioners

Vs

1. Andhra Pradesh Central Power Distribution Company Limited,
6-1-50, APCDCL Corporate Office, Mint Compound,
Hyderabad - 500 063

2. Andhra Pradesh Southern Power Distribution Company Limited,
Raghavendra Nagar, Trichanoor Road,
Tirupati - 517 501

3. Andhra Pradesh Eastern Power Distribution Company Limited,
Corporate Office, TPT Colony, Seethammadhara,
Visakhapatnam, 530 020



4. Northern Power Distribution Company Limited,
Corporate Office, 1-1-478 & 503, Opposite REC Petrol Pump,
Chaitenyapuri, Warangal - 506 004

5. Bangalore Electricity Supply Company Limited,
5th Floor, KPTCL Complex, Kavery Bhavan,
Bangalore - 560 009

6. Gulbarga Electricity Supply Company Limited,
5th Floor, KPTCL Complex,
Bangalore - 560 009

7. Hubli Electricity Supply Company Limited,
5th Floor, KPTCL Complex,
Bangalore - 560 009

8. Mangalore Electricity Supply Company Limited,
5th Floor, KPTCL Complex,
Bangalore - 560 009

9. Chamundeshwari Electricity Supply Company Limited,
5th Floor, KPTCL Complex,
Bangalore - 560 009

10. Maharashtra State Electricity Distribution Company Limited,
Prakashgad, Plot No G-9, Bandra (East),
Mumbai - 400 051

11. Tamil Nadu Electricity Board,
NPKRR, Maaligai, 800 Electricity Avenue, 144 Anna Salai,
Chennai, 600 002

.... Respondents

Parties Present:

Shri Vishrov Mukherjee, Advocate, CAPL

Shri Janmali Manikala, Advocate, CAPL

Shri Girik Bhalla, Advocate, CAPL

Ms. Anusha Nagarajan, Advocate, TANGEDCO

Ms. Ramisha Jain, Advocate, TANGEDCO

Dr.R.Kathiravan, TANGEDCO

Ms. R.Ramalakshmi, TANGEDCO

Ms. R.Alamelu, TANGEDCO

Shri Anup Jain, Advocate, MSEDCL

Shri Swapnil S. Katkar, MSEDCL

Shri Arunav Patnaik, Advocate, HESCOM, BESCO, CESC & MESCOM

Ms. Bhabna Das, Advocate, HESCOM, BESCO, CESC & MESCOM

Ms. Shashi, HESCOM, BESCO, CESC & MESCOM

Shri Sidhant Kumar, Advocate, AP Discoms

Ms. Manyaa Chandok, Advocate, AP Discoms



ORDER

The Petitioners, Coastal Andhra Power Limited and Reliance Power Limited, have filed this petition under Section 79 of the Electricity Act, 2003 read with Article 17 of the PPA dated 23.3.2007 seeking the following relief(s):

(a) Allow this present Petition and refer the disputes between the parties to arbitration under the ICA Rules;

(b) Restrain the Respondents from taking any coercive action, including invocation of Bank Guarantees, pending final adjudication of the dispute; and

(c) Pass any such other and further reliefs as this Hon'ble Commission deems just and proper in the nature and circumstances of the present case.

2. During the pendency of the petition, the Petitioners also filed Interlocutory Application (IA) No.13/2019 seeking ad-interim stay against the Respondents, from taking any coercive steps, including the invocation of Bank Guarantees, till adjudication of the disputes between the parties.

3. The petition along with the IA was heard on 15.2.2019 and the Commission vide Record of Proceedings, admitted the petition and issued directions to the parties to complete pleadings in the matter. However, by the same proceedings, IA No.13/2019 filed by the Petitioners, was disposed of as infructuous, based on the submission of the learned counsel for the Petitioners that the Procurers had encashed the Performance Bank Guarantees.

4. During the hearing of the petition through video conferencing on 22.10.2021, the learned counsel for the Petitioners prayed that the hearing of the petition may be adjourned and the Petitioners may be granted some time to file a substantive petition, indicating the claims against the Respondents.



5. On a query by the Commission as to whether the prayer of the Petitioner in the petition, to refer the matter to arbitration, would undergo any change, the learned counsel for the Petitioners, while replying in the affirmative, clarified that in terms of the decision of the Hon'ble Supreme Court, the Commission, may adjudicate the disputes in the present case, in terms of Section 79(1)(f) of the Electricity Act, 2003, instead of referring the same to arbitration.

6. On a specific observation by the Commission as to whether the Petitioner was willing to withdraw the present petition, the learned counsel for the Petitioners agreed to the same, subject to grant of liberty to the Petitioners to approach the Commission by filing a substantive petition. This was not objected to by the learned counsels appearing for the Respondents.

7. The request of the learned counsel for the Petitioners was accepted. Accordingly, Petition No.18/MP/2019 is disposed of withdrawn, with liberty to the Petitioners to approach the Commission with a fresh petition.

8. Petition No. 18/MP/2019 is disposed of in terms of the above.

Sd/-
(Pravas Kumar Singh)
Member

Sd/-
(I.S. Jha)
Member

Sd/-
(Arun Goyal)
Member

Sd/-
(P.K.Pujari)
Chairperson

